

REMARKS

With this Amendment, Applicants cancel claims 1-16. Therefore, claims 17 and 18 are all the claims currently pending in this Application.

Claim Objections

Claim 1 stands objected to due to informalities. Claim 1 is cancelled.

Claim Rejections

The current rejections are as follows:

- claims 1, 2, 6, 7 and 10 as unpatentable over Kondo et al., "Fabrication Of Long-Period Fiber Gratings By Focused Irradiation Of Infrared Femtosecond Laser Pulses," Optics Letters, Vol. 24, No. 10, May 15, 1999 ("Kondo"), in view of Bilodeau et al., U.S. Patent No. 5,495,548 ("Bilodeau");
- claim 8 as unpatentable over Kondo, in view of Bilodeau and Kircher, U.S. Patent No. 4,537,469 ("Kircher");
- claim 13 as unpatentable over Kondo, in view of Bilodeau and Kershaw, U.S. Patent No. 6,154,591 ("Kershaw");
- claim 14 as unpatentable over Kondo, in view of Bilodeau and Koops et al., U.S. Patent No. 5,982,962 ("Koops");
- claim 15 as unpatentable over Kondo, in view of Bilodeau and Starodubov, U.S. Patent No. 5,881,188 ("Starodubov");
- claim 16 as unpatentable over Kondo, in view of Bilodeau and Modavis et al., U.S. Patent No. 5,647,040 ("Modavis");
- claim 17 as unpatentable over Kondo, in view of Bilodeau and Albrecht et al., WO 99/52003 ("Albrecht"), which corresponds to U.S. Patent No. 6,591,034; and
- claim 18 as unpatentable over Kondo, in view of Bilodeau and Komatsu, U.S. Patent No. 6,192,170.

Claims 1-16. Claims 1-16 are cancelled.

Claims 17 and 18. Regarding claim 17, the Examiner asserts that Figure 1 of Albrecht teaches modifying the refractive index of an optical waveguide device including an array wave

guide grating, as claimed, such that a ray having a specified wavelength is coupled to the optical waveguide. However, while Figure 1 of Albrecht illustrates an optical waveguide device including an array waveguide grating for dividing multiplexed rays for WDM communication (Figure 1), there is no teaching or suggestion in Albrecht for modifying the refractive index such that a ray having a specified wavelength is coupled to the optical waveguide. Further, neither Bilodeau nor Albrecht teaches or suggests this limitation.

Therefore, Applicants submit that claim 17 is patentable over the cited combination of references and respectfully requests that the rejection of claim 17 be reconsidered and withdrawn.

Regarding the Examiner's rejection of Claim 18, Applicants note that Komatsu is unavailable as a reference in a §103(a) rejection. The filing date of the present application (February 21, 2001) predates the issue date of Komatsu (February 20, 2001). Thus, Komatsu, at best, is only available as prior art under §103 based on 35 U.S.C. § 102(e). Under 35 U.S.C. § 103(c), Applicants may make a showing of common ownership to overcome a rejection under 35 U.S.C. § 103(a), if the reference is only available as prior art under §102(e), (f), or (g).

The undersigned hereby represents that Komatsu and the claimed invention of the present Application were, at the time the invention of the present Application was made, owned or subject to an obligation of assignment to NEC Corporation.

In view of the above, it is respectfully submitted that Komatsu is not available as prior art under 35 U.S.C. § 103, and it is requested that the rejection of claim 18 based on Komatsu be reconsidered and withdrawn.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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